

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DBZ 7987

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UNITED STATES OF AMERICA,
ex rel. DON HANKS,

UNDER SEAL

Plaintiffs,

Civil Action No. CV-08-3096

v.

(Johnson, J.)
(Levy, M.J.)

RECEIVED
IN CHAMBERS OF
HON. STERLING JOHNSON, JR.

AMGEN, INC.; FLORIDA CANCER
SPECIALISTS; GULFCOAST ONCOLOGY
ASSOCIATES; and INTEGRATED
COMMUNITY ONCOLOGY NETWORK, LLC.,

DEC 19 2012

Defendants.

TIME A.M. _____
P.M. _____

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UNITED STATES' NOTICE OF PARTIAL INTERVENTION
AND DECLINATION FOR PURPOSES OF SETTLEMENT

1. The United States hereby intervenes in this action pursuant to 31 U.S.C. § 3730(b)(2) and (b)(4) for the purposes of settlement and dismissal with respect to allegations against defendant Amgen, Inc. relating to the United States in the Second Amended Complaint for Violations of the Federal False Claims Act and Various State False Claims Acts filed on December 30, 2011 to the extent of the Covered Conduct as set forth in paragraphs F and G of the Settlement Agreement among the parties, a copy of which is attached as Exhibit A.
2. The United States hereby declines intervention in this action as to all other allegations and defendants relating to the United States in the Second Amended Complaint for Violations of the Federal False Claims Act and Various State False Claims Acts filed on December 30, 2011.

3. Although the United States declines to intervene in a portion of the action, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the declined portion of the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." Id. Therefore, the United States requests that, should either the relator or the defendant propose that the part of the action in which the United States has not intervened be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.
4. Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action, even as to the non-intervened part of this action, be served upon the United States; the United States also requests that all orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts and to intervene in the portion of this action in which it is declining to intervene today, for good cause, at a later date.
5. The United States reserves the right to seek the dismissal of the relator's action or claim on any appropriate grounds, including under 31 U.S.C. §§ 3730(b)(5) and (e)(4).
6. Finally, the United States requests that this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of

evaluating whether the seal and time for making an election to intervene should be extended.

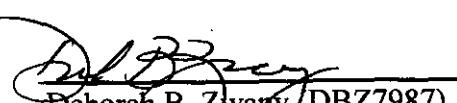
A proposed order accompanies this notice.

Dated: Brooklyn, New York
December 19, 2012

Respectfully submitted,

MARSHALL L. MILLER
Acting United States Attorney
Eastern District of New York
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By:


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